

Notice of Rulemaking Hearing
The Tennessee Department of Human Services
Child Support Services Division

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the following locations: Washington County Department of Human Services Conference Room, 103 East Walnut Street, Johnson City, Tennessee, at 6:30 PM Eastern Time on Monday April 18, 2005; Knoxville State Office Building, 7th Floor Conference Room A, 531 Henley Street, Knoxville, Tennessee, at 6:30 PM Eastern Time on Tuesday, April 19, 2005; Chattanooga State Office Building Auditorium, 540 McCallie Avenue, Chattanooga, Tennessee, at 6:30 PM Eastern Time on Wednesday, April 20, 2005; Putnam County Department of Human Services Conference Room, 269-E South Willow Avenue, Cookeville, Tennessee, at 6:30 PM Central Time on Thursday April 21, 2005; Citizens Plaza State Office Building, Second Floor Boardroom, 400 Deaderick Street, Nashville, Tennessee, at 6:30 PM Central Time on Monday, April 25, 2005; Maury County Department of Human Services Conference Room, 1400 College Park Drive, Suite B, Columbia, Tennessee, at 6:30 PM Central Time on Tuesday April 26, 2005; Madison County Department of Human Services Conference Room, 1124 Whitehall Street, Suite E, Jackson, Tennessee, at 6:30 PM Central Time on Wednesday, April 27, 2005; Donnelley J. Hill State Office Building, Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee, at 6:30 PM Central Time on Thursday, April 28, 2005; Obion County Department of Human Services' Conference Room at 1416 Stad Avenue Union City, TN 38261 at 6:30 PM Central Time on Friday April 29, 2005.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party intends to review such filings, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Fran McKinney, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563, (TTY)- (800) 270-1349.

For a copy of this notice of rulemaking hearing, contact: Kim Beals, Assistant General Counsel, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

Substance of Proposed Rules
of
The Tennessee Department of Human Services
Child Support Services Division

1240-2-4
Child Support Guidelines

Amendments

Rule 1240-2-4-.03, The Income Shares Model, is amended by deleting part 6 of subparagraph (a) of paragraph (6) in its entirety and by substituting instead the following language so that, as amended, part 6 shall read as follows:

6. If each parent spends exactly fifty percent (50%) of the time with the child, the child support obligation shall be calculated according to the rules for standard parenting, with both parents using parenting time adjustments, from the beginning of the Child Support Worksheet through calculation of each parent's adjusted support obligation on Line 13 of the Worksheet. When calculating the PCSO, the lesser obligation from Line 15 shall be subtracted from the greater obligation. The difference shall be the presumptive obligation, which is entered on Line 16 of the Worksheet, to be paid by the parent with the greater obligation, regardless of that parent's designation for the purposes of T.C.A. § 36-6-402.

Authority: T.C.A. §§ 4-5-202; 36-5-101(e); 71-1-105(12), (16); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. § 302.56.

Rule 1240-2-4-.04, Determination of Child Support, is amended by deleting subparagraph (d) of paragraph (8) in its entirety and by substituting instead the following language so that, as amended, subparagraph (d) shall read as follows:

- (d) Calculations for Additional Expenses.
 1. The amounts paid by each parent, whether directly or through payroll deduction, for the child's health insurance premium and/or work-related childcare costs shall be entered on the Child Support Worksheet to be used in calculating total additional expenses and each parent's ASO.
 2. Each parent's pro rata share of the additional expenses shall be determined by multiplying the PI of each parent by the combined total additional expenses.
 3. Adjusted Support Obligation (ASO).
 - (i) In standard parenting situations, the ASO is the parent's share of the BCSO plus the parent's share of any additional expense for the child's health insurance premium and/or work-related childcare; or
 - (ii) In split parenting situations, the ASO is each parent's BCSO for the children in the other parent's care plus each parent's share of any additional expense for the children's health insurance premium and/or work-related childcare.
 - (iii) If a parenting time adjustment has been calculated in any case, that parent's share of the BCSO is adjusted as specified in subparagraph 1240-

2-4-.03(6)(e), then each parent's ASO is calculated as indicated above in either subpart (i) or (ii).

4. Adjustment to ASO for Payment of Additional Expenses.

(i) Standard Parenting.

In cases where a parent is paying directly or through payroll deduction the child's health insurance premium or paying through payroll deduction work-related child care costs, the parent is entitled to an adjustment in the child support obligation to account for the payment of these expenses, as specified in 1240-2-4-.08(2)(e)8(i).

(ii) Split Parenting and 50/50 Parenting.

In split parenting cases and in cases where parenting time is divided on a 50/50 basis, the provisions of 1240-2-4-.08(2)(e)8(ii) shall be applied to determine which parent is responsible for paying child support to the other parent, which parent is responsible for paying any non-payroll deducted childcare, and to adjust the ASO to account for amounts not owed to the other parent as child support but to a third party for either the health insurance premium or work-related child care.

(iii) If the health insurance premium is being paid by a parent and/or the work-related child care is being paid by a parent through payroll deduction, the payment shall be reflected in the child support order to identify the amount and nature of the obligation, but shall not be included in the ARP's income assignment. The order shall require that these expenses continue to be paid in the same manner as they were being paid prior to the instant action.

(iv) To the extent that work-related childcare expenses are not paid through payroll deduction, the expense shall be accounted for in the ARP's income assignment as part of the child support order. The PRP is then expected to pay this expense in full out of his/her income and the child support award since the ARP's pro rata share of the expense will be included in the income assignment resulting from the child support order.

Authority: T.C.A. §§ 4-5-208; 36-5-101(a)(1) and (e); 36-5-103(f); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56; 303.8.

Rule 1240-2-4-.08, Worksheets and Instructions, is amended by deleting subparagraph (e) of paragraph (2) in its entirety and by substituting the following language so that, as amended, subparagraph (e) shall read as follows:

(e) Part V – Adjustments for Additional Expenses. [Rule 1240-2-4-.04(8)]

1. General Instructions.

- (i) This Part includes only health insurance premiums and work-related childcare expenses.
- (ii) If expenses are not incurred regularly, a monthly amount shall be calculated by averaging the expense over a twelve (12) month period.

- (iii) Only amounts actually paid are included in the calculation. Payments that are made by a parent's employer, but not deducted from the parent's wages, shall not be included.
- (iv) Only the portion of the health insurance premium actually attributable to the children for whom support is being determined and actually paid by the parent is included. If the actual amount of the health insurance premium that is attributable to the child who is the subject of the current action for support is not available or cannot be verified, the total cost of the premium shall be divided by the number of persons covered by the policy to determine a per person cost. This amount is then multiplied by the number of children who are the subject of this action and are covered by the policy.

$$\begin{array}{cccccc}
 \$ & & \div & & = \$ & & \times & & = & & \\
 \text{Total} & & \text{No. of Persons} & & \text{Per Person} & & \text{No. of Children} & & \text{Child's Portion} & & \\
 \text{Premium} & & \text{Covered by Policy} & & \text{Cost} & & \text{Subject to Order} & & \text{of Premium} & &
 \end{array}$$

- (v) Additional expenses of a non-parent caretaker shall be included in calculating the amount of these expenses.

2. Line 11a – Children's Portion of Health Insurance Premium. [Rule 1240-2-4-.04(8)(b)]

Enter on Line 11a in the column of the parent responsible for payment the amount that is, or will be, paid by a parent either directly or through payroll deduction for health insurance for the children for whom support is being determined.

3. Line 11b – Work-related Childcare Expenses – Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 11b enter in the column of the parent responsible for payment the amount of any work-related childcare expense paid by the parent through payroll deduction for the child for whom support is being determined.

4. Line 11c – Work-related Childcare Expenses – Non-Payroll Deducted. [Rule 1240-2-4-.04(8)(c)]

On Line 11c, enter in Column A and Column B the monthly amount of any work related childcare expense paid directly, but not any amounts paid by payroll deduction, by either parent for the child for whom support is being determined. In Column C of Line 11c, enter the total amount of any work-related childcare expense paid directly by both parents for the child for whom support is being determined.

5. Line 11d – Total Additional Expenses. [Rule 1240-2-4-.04(8)]

Total the amounts on Lines 11a and 11b, Columns A and B, and enter the totals on Line 11d. Add together the totals in Columns A and B from Line 11d with the amount in Column C from Line 11c to calculate the total amount of additional expenses and enter this total on Line 11d, Column C.

6. Line 12 – Each Parent’s Share of Additional Expenses. [Rule 1240-2-4-.04(8)]

Calculate each parent’s share of the additional expenses (both directly paid and paid by payroll deduction) by multiplying each parent’s percentage of income (PI) from Line 3 times the total additional expenses from Line 11d, Column C and enter amounts in the appropriate columns on Line 12. [Line 3, Column A, times Line 11d, Column C for the PRP’s (Mother’s) share; Line 3, Column B times Line 11d, Column C for the ARP’s (Father’s) share.]

7. Line 13 – Adjusted Support Obligation – BCSO plus parent’s share of additional expenses. [Rule 1240-2-4-.02(2) & .04(8)(d)]

Using one of the methods specified below, calculate the “Adjusted Support Obligation” by totaling each parent’s share of the “Basic Child Support Obligation” and each parent’s share of the “Additional Expenses” and enter the amount in the appropriate column on Line 13.

(i) Cases With No Parenting Time Adjustment.

(I) In standard parenting cases, add together Line 5 (the BCSO for each parent) and Line 12 (each parent’s share of the additional expenses) for each parent. Enter the result for each parent in the appropriate column on Line 13 as the ASO for each parent.

(II) In split parenting situations, add Line 6a and Line 12, Column A for the Mother (Mother’s share of obligation and additional expenses); add Line 6b and Line 12, Column B for the Father (Father’s share of the obligation and additional expenses). Enter the result for each parent in the appropriate column on Line 13 as the ASO for each parent.

(ii) Cases With a Parenting Time Adjustment.

If a parenting time adjustment has been calculated in any case, add together Line 10 and Line 12 for each parent (each parent’s adjusted BCSO and share of expenses). Enter the result for each parent in the appropriate column on Line 13.

8. Adjustment to the ASO for Payment of Additional Expenses. [Rule 1240-2-4-.04(8)(d)]

(i) Standard Parenting.

(I) Line 14 - Adjustments to the ASO for Payment of Additional Expenses.

Enter in the parent’s column on Line 14 (Adjustments to ASO for payment of additional expenses) the total amount of any health insurance premium either directly paid or paid automatically through payroll deduction plus the amount of any work-related childcare expense paid automatically by the parent through payroll deduction.

(II) Line 15.

Subtract Line 14 from Line 13 (the Adjusted Support Obligation) in Column A and in Column B and enter the remainder on Line 15, Columns A and B in order to credit the parent for the amount of any health insurance premium paid or for the amount of any work-related childcare paid automatically through payroll deduction. The child support order must include the amount of the deduction for these expenses and identify the nature of the obligation. The order shall require that these expenses continue to be paid. (For example, deduction of \$100 monthly for ARP's payment to XYZ Insurance Company for the child's health insurance. ARP shall continue to pay XYZ Insurance Company, or the subsequent health insurance company, for the child's health insurance.) If the childcare expense is not paid through payroll deduction, the ARP's portion of the expense shall be included in the income assignment resulting from the child support order, and the full amount of the expense shall be paid by the PRP through his/her income and the child support award.

(ii) Split Parenting and 50/50 Parenting.

(I) To determine which parent will pay support to the other parent –

- I. Calculate the amount of support the Mother actually owes to the Father rather than to a third party for payment of an additional expense. This amount is the Mother's ASO reduced by her pro-rata share of the health insurance premium being paid by her (from Line 11a, Column A), whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction (from Line 11b, Column A). [Multiply Line 11d, Column A (Mother's total expenses), times Line 3, Column A (Mother's PI), and subtract the result from Line 13, Column A-Mother's ASO]. The result of this calculation will not be entered or displayed on the Worksheet, but is contained in the automated calculator; and
- II. Calculate the amount of support the Father actually owes to the Mother rather than to a third party for payment of an additional expense. This amount is the Father's ASO reduced by his pro-rata share of the health insurance premium being paid by him (from Line 11a, Column B), whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction (from Line 11b, Column B). [Multiply Line 11d, Column B (Father's total expenses), times Line 3, Column B (Father's PI), and subtract the result from Line 13, Column B-Father's ASO]. The result of this calculation will not be entered or displayed on the Worksheet but is contained in the automated calculator; and
- III. The amounts calculated in sub-items I and II above are not entered or displayed on the Worksheet but are used as indicated in items (II) and (III) below to determine which parent will be responsible for payment of the presumptive

child support obligation and/or which parent will be responsible for the payment of any non-payroll-deducted childcare expense.

- (II) If the result from sub-item (I)I above is greater than the result from sub-item (I)II above (i.e. - the Mother owes more money to the Father than the Father owes to the Mother), then –
- I. The Mother will pay support to the Father and the Father will be required to pay the full amount of any non-payroll deducted childcare expense out of his income and the child support award;
 - II. The Mother's ASO on Line 13 shall be reduced by her pro-rata share of the health insurance premium being paid by her, whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction.
 - A. The amount of this reduction to the Mother's ASO is the result of multiplying Line 11d, Column A by Line 3, Column A (Mother's total expenses by Mother's PI).
 - B. Enter this amount on Line 14, Column A;
 - III. The Father's ASO on Line 13 shall be reduced by his pro-rata share of the health insurance premium being paid by him, whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction plus his pro-rata share of any non-payroll deducted childcare.
 - A. The amount of the reduction to the Father's ASO is the result of the following: Line 11d, Column B plus Line 11c, Column C times Line 3, Column B.
 - B. Enter this amount on Line 14, Column B.
- (III) If the result from section (I)II above is greater than the result from section (I)I above (i.e. - the Father owes more money to the Mother than the Mother owes to the Father), then –
- I. The Father will pay support to the Mother and the Mother will be required to pay the full amount of any non-payroll deducted childcare expense out of her income and the child support award.
 - II. The Father's ASO on Line 13 shall be reduced by his pro-rata share of the health insurance premium being paid by him, whether directly or through payroll deduction, and any childcare expense being paid by him through payroll deduction.

A. The amount of the reduction to the Father's ASO is the result of multiplying Line 11d, Column B by Line 3, Column B.

B. Enter this amount on Line 14, Column B.

III. The Mother's ASO on Line 13 shall be reduced by her pro-rata share of the health insurance premium being paid by her, whether directly or through payroll deduction, and any childcare expense being paid by her through payroll deduction plus her pro-rata share of any non-payroll deducted child care.

A. The amount of this reduction to the Mother's ASO is the result of the following: Line 11d, Column A plus Line 11c, Column C times Line 3, Column A.

B. Enter this amount on Line 14, Column A.

(IV) Line 15.

Subtract Line 14 from Line 13 in Column A and in Column B and enter the remainder on Line 15, Columns A and B to credit each parent's ASO for his/her pro-rata share of additional expenses paid by the parent to third parties. The child support order must reflect these payments by identifying the amount and nature of the obligation. The order shall require that these expenses continue to be paid, whether directly or through payroll deduction.

(V) If upon application of amounts entered on Line 18 (uninsured medical expenses) or Line 19 (deviations) the parent who was found to be responsible for payment of the PCSO (Line 16) is now different from the parent who becomes responsible for payment of the FCSO (Line 20) due to any additional calculations for uninsured medical expenses and/or deviations, then there must be a corresponding change in the parent who is responsible for payment of the non-payroll-deducted childcare (i.e. – the parent receiving the support indicated on Line 20 will become the parent responsible for payment of the non-payroll-deducted childcare). To adjust for these changes in financial responsibility, the total amount of any non-payroll-deducted childcare entered on Line 11c, Column C shall be added to the paying parent's support obligation on Line 20 (FCSO).

Authority: T.C.A. §§ 4-5-208; 36-5-101(e); 71-1-105(12),(15); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56; 303.8.

Rule 1240-2-4-.05, Modification of Child Support Orders, is amended by adding a new paragraph (8) which shall read as follows:

(8) Modification of Orders in Split Parenting Cases and Cases Where Parenting Time is Divided on a 50/50 Basis.

(a) If an order was established or modified under the Income Shares guidelines as implemented on January 18, 2005, the order may be modified without compliance with the significant variance requirement, using the provisions of Rule 1240-2-4-

.08(2)(e)8(ii) as implemented through emergency rules, only for the purpose of correcting the calculation error resulting from application of the rules implemented on January 18, 2005, to a split parenting case or a case in which parenting time is divided on a 50/50 basis.

- (b) Any arrears which may have accumulated under any such order as originally established or modified under the Income Shares guidelines may be recalculated consistent with the amount of the child support obligation as modified pursuant to this Emergency Rule 1240-2-4-.08(2)(e)8(ii).

Authority: T.C.A. §§ 4-5-202; 36-5-101(a)(1) and (e); 36-5-103(f); 71-1-105(12),(16); 71-1-132; 42 U.S.C. § 667; 45 C.F.R. §§ 302.56, 303.8.

Rule 1240-2-4-.08, Worksheets and Instructions, is amended by deleting paragraph (4) in its entirety and by substituting instead the following:

(4) Child Support Worksheet.

State of Tennessee – Child Support Worksheet

Part I. Identification

Indicate the status of each parent or caretaker by placing an "X" in the appropriate column

		PRP	ARP	SPLIT
Name of Mother:				
Name of Father:				
Name of non-parent Caretaker:				
TCSSES case #:				
Docket #:				
Court name:				

Name(s) of Child(ren)	Date of Birth	Days with Mother	Days with Father	Days with Caretaker

Part II. Basic Support Obligation

Use Credit Worksheet to calculate line items 1b – 1d

- ✓ For clarity and consistency, use Column A for PRP information and Column B for ARP information
- ✓ For Split Parenting, use Column A for Mother's information and Column B for Father's information

	Column A	Column B	Column C
1 Monthly Gross Income	\$	\$	
1a Self-employment tax paid	-	-	
1b Credit for pre-existing support orders	-	-	
1c Credit for In Home Children	-	-	
1d Credit for Not In Home Children	-	-	
2 Adjusted Gross Income (AGI)	\$	\$	\$
3 Percentage Share of Income (PI)	%	%	%
4 Basic Child Support Obligation (BCSO)			\$

Part III. Parents' Share of Support Obligation

Standard Parenting	5	Each parent's share of the BCSO	\$	\$	
Split Parenting	6a	Mother's obligation for children for whom father is the PRP	\$		
	6b	Father's obligation for children for whom mother is the PRP		\$	

Part IV. Parenting Time Adjustment

7a	Number of days per calendar year with children supported by this order with whom the ARP spends 121 or more days per calendar year			
7b	Parenting time adjustment percentage	%	%	
8a	Number of days per calendar year with children supported by this order with whom the ARP spends 53 or fewer days per calendar year			
8b	Parenting time adjustment percentage	%	%	
9	Reduction in ARP's support obligation for parenting time	\$	\$	
10	Each parent's share of the adjusted BCSO	\$	\$	

Legal Contact or Party who will approve final copy:

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(615) 313-4731

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Department of Human Services.

DK Beals

Kim Beals
Assistant General Counsel
Tennessee Department of Human Services

Subscribed and sworn to before me this 28th day of FEBRUARY, 2005

[Signature]
Notary Public

My commission expires on the _____ day of _____
My Commission Expires
August 20, 2006

The notice of rulemaking set out herein was properly filed in the Department of State on the 28 day of Feb., 2005

Riley C. Darnell

Riley C. Darnell
Secretary of State

By: *[Signature]*

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